SPEECH

OF

MR. HARALSON, OF GEORGIA,

ON THE

POWER OF CONGRESS TO REGULATE ELECTIONS IN THE STATES.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
FEBRUARY 13, 1844.

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SPEECH.

The Report of the Committee of Elections, relative to the right of certain Members to their seats in the House of Representatives, being under consideration—

Mr. HARALSON rose and said :

Mr. SPEAKER : Although the House may be wearied by this discussion, the important principles involved, and the interest felt by the people of the States whose right to representation is questioned, will afford sufficient reasons for me to claim a share of its attention. When I have done, whether the time allotted to me by the rules has expired or not, I shall resign the floor to other gentlemen who may desire to be heard.

Our Government is essentially a Government of the people. Their Representatives are their chosen agents, by which its machinery is conducted. If the power exists in this or the State Governments to deprive them of their representation, then there is a power lodged in Government sufficient, when exercised, to destroy the Government itself. No such power exists either in this Government or that of the States. The people of the States have rights secured to them by the second section of the first article of the Constitution, which no subsequent clause of that instrument either abridges or destroys. That important clause says : "*The House of Representatives shall be composed of members chosen every second year by the people of the several States ;*" and without it this Government would never have been formed. Without it, it would not be a representative Government. If no other clause touching the subject had been inserted in the Constitution, it is certain that every regulation necessary to exercise this right would have been left *exclusively* "*with the people of the several States.*" In a subsequent clause of the Constitution, the Legislatures of the States are authorized to regulate the elections of members to Congress. This clause gave no additional right to the people, nor did it deprive them of a right already secured to them ; it simply named the Legislatures of the States as the proper power to prescribe the *times, places, and manner of holding elections.* This regulation neglected, or prevented, by any cause, from being prescribed by the State Legislatures, would, in effect, destroy this valuable right of representation belonging to the people, and by it destroy the Government itself. The framers of the Constitution, to guard against this possible evil, and to give a self-preserving power to

the Government, inserted in the same clause of the Constitution, that Congress might at any time, by law, make or alter those regulations, that the people might, in any contingency, be secured in the inestimable right of freemen—the right of representation.

It is a singular reflection, that this clause of the Constitution, intended, as it no doubt was, to prevent the possibility of failure of representation by the people, is now used as the instrument to deprive them of it. Could Madison and Jay and Hamilton, and others, whose talents and energies were employed in obtaining a ratification of the Federal Constitution, could they, sir, listen to our debates upon this question, how amazed would they be at the wonder-working ingenuity of men to destroy a right which they sought to protect against the possibility of destruction! To know that a part of the Constitution, intended to secure *forever* the right of representation to the people, was now attempted to be used for the opposite purpose! This Government, the creature of the States, now seeks to disfranchise four sovereign States of this Union, by a pretended exercise of power which alone was given to guard against a failure of their representation. Let us, for a moment, examine the authority by which it is proposed to disfranchise these four States. It is claimed under that clause of the Constitution to which I have referred, by which Congress has the power at any time, by law, to make regulations or alter those made by the States. It is contended that Congress, by the second section of the apportionment act, has *altered* the *manner of holding the elections* for Congress in the States. Is this true? What alteration has Congress made? If I understand the law, it neither makes nor alters any State regulation upon the subject of the elections. It is true that, by the section of the act just mentioned, Congress has *directed* the States to *alter* their laws upon the subject of the elections. But, sir, there is a vast difference between *doing* an act and *ordering* an act to be done. In the latter case there may be no compliance with orders—the act may not be performed.

If Congress claims the right to *district* the States under that grant of power which gives authority to prescribe the *manner of holding elections*, under what clause of the Constitution is the right claimed to *direct* a State to do it? There is not a pretext for such an assumption of power. Do gentlemen reflect upon the dangerous tendency of this doctrine? If Congress can transfer a granted power to the States, she can, by transferring all she has, destroy this Government. But still more alarming is the doctrine that a power given to Congress to be exercised, she can compel the States to exercise as she directs. Congress has the power to prescribe the manner of holding elections for Congress in a State; but, instead of doing it, directs the States, upon penalty of disfranchisement, to perform it in a particular way. This is the strongest consolidation doctrine I have ever heard; it is utterly subversive of State sovereignty, and places the State Legislatures under the guardianship of Congress. The time has been, when the claim of such a power would have aroused every State in the Union. The Legislatures of the States—the highest power known in the States—the representatives of the sovereign people of the States, to be controlled and directed in their legislation by an act of Congress! No, sir; if Congress has the power to district the States, let her do it; but let her neither command or direct the States to do so, without authority. The States of New Hampshire, Georgia,

Mississippi, and Missouri, pass laws providing for the time, place, and manner, of holding elections, which none deny were constitutional: Congress, by the second section of the apportionment act, directs that the States shall be districted, forcing the States to repeal their laws, and pass others in their stead, to be done under penalty of disfranchisement. Such an assumption of power is ultra federal. It was reserved for the twenty-seventh Congress to attempt its exercise; and it remains for you to determine whether this arrogance shall be consummated by applying the threatened penalty. It is conceded that Congress has many granted powers, but no one who desires the States and General Government to move in their legitimate spheres, admits that Congress can control the Legislatures of the States.

When the plan of the Constitution was submitted to the States for ratification, this fourth section was the subject of much discussion; and so jealous were the States of any infringement of their rights, that a majority of the then States desired its amendment or repeal; not because they supposed the power was granted to Congress to compel a State Legislature to repeal State laws and pass such as Congress might direct, but because they objected to the slightest interference, upon the part of Congress, with the internal regulations of the States. I will refer you to some of the arguments offered by distinguished men in order to allay the apprehensions of the States upon this subject, and induce them to consent to the adoption of the Constitution. And it is, perhaps, well for us that an occasion has occurred, in which we may stir up our minds by way of remembrance. These old doctrines of State rights, well understood in the days of Madison and his associates, are sometimes lost sight of in the heat of party strife. Those who entertained them have passed away, but have fortunately left the record of their opinions as landmarks in the waste of party contention:

"In the New York Convention, Mr. Jones having offered a resolution, 'that nothing in the Constitution then under consideration should be construed to authorize the Congress to make or alter *any regulations*, in any State, respecting the times, places, or manner, of holding elections for Senators or Representatives, unless the Legislature of such State shall neglect or refuse to make laws or regulations for the purpose, or, from any circumstance, be incapable of making the same, and then only until the Legislature of such State shall make provision in the premises,' the Honorable Mr. Jay said, 'that, as far as he understood the ideas of the gentleman, he seems to have doubts with respect to this paragraph, and feared it might be misconstrued and abused. He said that every Government was imperfect, unless it had the power of preserving itself. Suppose that, by design or accident, the States *neglect to appoint Representatives;* certainly there should be some constitutional remedy for this evil. The obvious meaning of the paragraph was, that, if this neglect should take place, Congress should have power, by law, to support the Government, and prevent the dissolution of the Union. He believed this to be the design of the Federal Convention.'"

Mr. Madison's speech in the Virginia Convention contains this remarkable passage:

"Should the people of any State by any means be deprived of the right of suffrage, it was judged proper that it should be remedied by the General Government. It was found impossible to fix the time, place, and manner of the election of Representatives, in the Constitution. It was found necessary to leave the regulation of these, in the first place, to the State Governments, as being best acquainted with the situation of the people, subject to the control of the General Government, in order to enable it to produce uniformity, and prevent its own dissolution."

Thus you will perceive that what I have already said is sustained by the debates in the Conventions. To the opinions already quoted I add, in

conclusion, only that of Chancellor Kent, in his Commentaries on American law. He says: "The Legislature of each State prescribes the times, places, and manner of holding elections, subject, however, to the interference and control of Congress, which is *permitted them* for their *own preservation*, but which it is to be presumed they will never be disposed to exercise, except where any State shall *neglect* or *refuse* to make adequate provisions for the purpose." I have the opinions of other distinguished men of that day, which are even more pointed than those which I have read, but which I will not now take time to read. To explanations like the two first we are probably indebted for the Constitution. If any believed that it would have been ratified without these explanations, they must believe that seven of the States were insincere in their protestations against the exercise of such power by Congress, except in case of *failure* or *neglect* on the part of the States to provide the necessary regulations.* The opinion of Chancellor Kent shows that the power of Congress over the times, places, and manner of holding elections, is only *permissive*, and that the object was to secure to the Goverement the power of self-preservation. I ask, then, sir, does not the second section of the apportionment act conflict with the obvious meaning and intention of the Constitution? None of the States neglected or refused to make the necessary regulation for the election of representatives. The Government has been in no danger of dissolution from their neglect or refusal to provide such regulations. There has been no necessity for this act of Congress. It is an unwarrantable interference with State legislation. The argument, thus far, has been based upon the supposition that the terms *manner* of holding elections includes the power of laying off the States into congressional districts, and that Congress has the power to divide a State territory as it may choose. Conceding such power, it has not been exercised by Congress; and no power can be claimed by this or any other section, by which Congress can *command* a State to do it in her stead. So far as the power under this clause is concerned, it is a correlative power, which may be exercised without control by either, but cannot be exercised by both at the same time. If the States fail, then Congress may exercise it; but its action must be its own. If the States exercise it, it is upon their own responsibility. No such division of power can be recognised as that Congress may give the rule, and the States shall complete their legislation. If Congress exercise this power, the regulations or system of representation should be complete, which it is not pretended has been furnished in the second section of the apportionment act. No district elections could be held under that act, without State legislation. It barely gives a rule for State legislation, but has neither made a regulation itself, nor *altered* any existing State regulation; nor does it repeal the State regulation. It follows, that the election laws of the State existing at the time of the election, being constitutional and unrepealed, are in full force until such repeal, and must be observed accordingly. I will not enlarge upon a proposition so plain.

I propose now to examine more minutely the grant of power contained in the fourth section of the Constitution, and will endeavor to prove that by this clause the power to district a State is not given, nor was it ever contemplated by the framers of the Constitution. One of the greatest

* See Appendix.

difficulties to be overcome in this discussion is, to properly draw the difference between being the advocate of the district system, and the opponent of the existence of a power to district under this clause of the Constitution. The friends of the district system, apprehensive that a denial of the power to district, in this clause, destroys the whole system, are reluctant to restrict the grant. It is not my purpose to discuss the district system. It is a very convenient mode of electing Members of Congress, and has grown into favor with the people of the United States My own State has recently been districted; done of her own will, I trust, sir. As acitizen of that State I bow in respectful obedience to her laws. But I do deny that this clause of the Constitution *gives* either Congress or the State Legislatures any power to district a State. The States themselves derive no power from the Constitution; their powers are in some instances restricted, and in others guarantied and secured; but in no instance do the States derive their power from the Constitution. It would bea contradiction in terms to say that the States, in their character as States, derive power from the Constitution; which Constitution has no power but such as is derived from the States. The States created the Constitution, and brought this Government into existence, with limited powers.

These remarks show the difference between the powers of Congress over the subject and the powers of the States. The former has no power except that which is granted; the latter every power not prohibited. So that in denying that the clause of the Constitution to which I have referred gives either the States or the General Government the power to district a State, it by no means follows that therefore the States have no such rights; because all the internal regulations of a State are within the control of State legislation, wholly independent of the Constitution of the United States. What, then, is meant by the "*times*, *places*, and *manner* of holding elections?" The right of the people of a State to elect their Representatives is secured in the second section of the first article of the Constitution. In order that the election should be held by which this right can be exercised with uniformity, it was necessary that a *time* should be appointed, a place fixed, and the manner of holding the election pointed out. The whole difficulty is made to rest upon the word *manner*, which is made to have a most extensive signification, an amplitude of meaning which violates good sense.

It is insisted that the word *manner* means either the district or general-ticket system. I ask the House to allow an analysis of this construction. I select my own State for this purpose. The people of Georgia have the right of sending Representatives to Congress; and, in order that this privilege may be enjoyed, the Legislature of the State passes a law fixing the time of holding the election on the first Monday in October, designates the places at which the elections shall be held, and declares that the manner of holding the election shall be by general ticket. Here is a full and complete compliance with the construction for which our adversaries contend. The Legislature has fixed the time, the place, and the manner of holding the election. On the day appointed, and at the places designated, the people assemble, but can hold no election, because, in truth, the manner of holding the election has not been prescribed. The qualifications of voters, the hours of opening the polls, the manner of voting, who shall

preside, &c., which was all ever meant by the manner of holding an election, have been omitted, and the word *manner* made applicable to the system of election, rather than to the mode of *holding* the election. Whether the district or general-ticket system be adopted, it is equally necessary to point out the time, place, and manner of holding the election. To make the term *manner* mean both the system of electing and the mode of conducting the election is a forced construction, doing injustice to the character of those who drafted, and those who adopted the Constitution. The system of electing is one thing, and the manner of holding an election is totally a different thing. Take an illustration from the fourth section itself: Congress has an equal right to regulate the manner of electing *Senators* and Representatives. Does anybody believe by this power that Congress can divide a State into Senatorial districts? Yet the power is as applicable to Senators as to Representatives, and the same meaning intended. If the manner of holding an election includes or means the system of election, then the system of electing Senators must be embraced, to which no one assents. In the State Conventions which ratified the Constitution, the debates show that, while the States protested against this section, no one ever supposed that it included the power to district a State. The arguments against the section were, that Congress might select a place in the States difficult to approach, and in some remote and distant corner, by which the people might be defeated of their suffrages; but none contended then, as now, that the *manner of holding* an election was ever intended to embrace the power of dividing the States into districts.

I will call the attention of the House to a few extracts from the debates in State Conventions. Patrick Henry said in the Virginia Convention:

"What can be more defective than the clause concerning the elections? The control given to Congress over the time, place, and manner, of elections, will totally destroy the end of suffrage. The elections may be held in one place, and the most inconvenient in the State, or they may be held at remote distances from those who have a right of suffrage," &c.

Mr. Davie, in the North Carolina Convention, explaining this clause of the Constitution, (and I emphacise as he did only,) said:

"I am willing to appeal to grammatical construction and punctuation. Let me read this as it stands on paper." [Here he read the clause different ways, expressing the same sense.] "Here in the first part of the clause this power over elections is given to the States, and in the latter part the same power is given to Congress, and extending only to the time of *holding*, the place of *holding*, and the manner of *holding* the elections. Is this not the plain, literal, and grammatical construction of this clause? Is it possible to put any other construction upon it without departing from the natural order, and without deviating from the general meaning of the words, and every rule of grammatical construction? Twist it, torture it as you may, it is impossible to fix a different sense upon it."

Mr. Davie, who says that it is impossible to give any other sense to it, makes the emphasis to rest upon the word "*holding*" an election,—the times of *holding*, the place of *holding*, and the manner of *holding* elections. Now, sir, how can the *manner of holding an election* be made to apply to a particular number of counties, or the area within certain fixed lines, embracing a certain territory? In all the debates upon the Constitution in the different State Conventions, it is a strange fact that no one, either for or against the Constitution, ever dreamed of the power of districting the States under this clause of the Constitution.

You perceive, sir, I am fully sustained in my position, by the extracts

made; and they show that the States were fearful of any interference of any kind, or for any purpose, with their State regulations; and that the idea of dividing a State into districts by Congress, under this phrase—manner of holding elections, was never entertained. And shall we sustain Congress in assuming a power never given, to control State legislation, and which has a tendency to deprive the people of these four States of their representation—a right "inestimable to them, and formidable to tyrants only?" The comments of my colleague [Mr. CHAPPELL] upon strained construction against the right of representation, have been just and appropriate. To sustain such forced construction of the Constitution against the right of representation, is to make another long stride for Federal power; repeated, and the States soon become the vassals of the General Government. I trust, sir, such movements will not be encouraged by this House.

The gentleman from Vermont, [Mr. COLAMAR,] has given us an instance of acts by Congress, which he has said were *mandatory* on the States to perfect, and by legislation to carry out, the purpose of Congress. The act to which he refers, was very different from that under consideration, both in relation to the authority by which it was made, and the character of its enactment. The act of 1808, "making provisions for arming and equipping the whole body of the militia of the United States," had the authority of the Constitution. In the enumeration of the powers of Congress, the Constitution says, that Congress shall have power "to provide for organizing, arming, and disciplining the militia, and governing such parts of them as may be employed in the service of the United States; reserving to the States respectively the appointment of officers, and the authority of training the militia, according to the discipline prescribed by Congress." But to the mandatory clause of that act: It provides by appropriation, for arms and military equipments for the whole body of the militia. But, he tells us, they must be distributed; and for this purpose, Congress, by the 3d section of the act, provided that "the arms purchased in virtue of this act shall be transmitted to the several States composing this Union and the Territories thereof, to each State and Territory respectively, in proportion to the number of effective militia in each State and Territory, and by each State and Territory to be distributed to the militia, under such rules and regulations as shall be by law prescribed by the Legislature of each State and Territory." This he is pleased to call *mandatory* on the States. I view it in a very different light. It was nothing but an advisory course to be pursued in distributing the arms, which, it was to be presumed, the States would not object to, as it affected no right, or curtailed no privilege. Suppose the States had refused to distribute the arms thus provided: this Government could have sent an agent into the States to distribute them, by an act for that purpose. She would have been authorized to do so, under the clause of the Constitution upon that subject, having the power to provide for "organizing, *arming*, and disciplining the militia." It was not only a clear constitutional right of Congress, but it neither affected the rights or curtailed the privilege of the States, as does the second section of the apportionment act. But, sir, the right to command, implies a duty to obey, and the right of inflicting a penalty in case of disobedience. Suppose this act of 1808 was mandatory on the States, (as the gentleman contends it was,) and the States had refus-

ed to make any provisions for distributing the arms provided and forwarded to them; what then? Would the gentleman contend that the State refusing had forfeited her right to be considered a member of this Union; or that Congress could impose any penalty on the States? The same argument applies to the act of 1792, entitled "an act more effectually to provide for the national defence, by establishing a uniform militia throughout the United States," in which Congress did not itself arrange the militia of the respective States into divisions, brigades, regiments, and companies, but left these regulations to the States, and which the States did because it violated no right, and abridged no State privilege. But it is very different with the act under consideration. The constitutional provision in relation to the different subjects are altogether different, as I have shewn.

The committee who have made the minority report, sought to give this question a party bearing. They have indulged in party feeling, and dealt in passionate invective. They have invoked the people to arouse, and throw their betrayers from them. The act of members, whose constituents were mostly interested in this subject, in claiming their seats, had been characterized as lawless and revolutionary. If this be a missile directed at the party with which I act, it falls harmless at their feet, or rebounds, with double force, against those who sent it. They have not deceived the people of these States with promises they never could redeem. As far as my own State is concerned, it cannot be said to be a party question. The act of Congress was met, I believe, with the opposition of her representation of both parties in both Houses of the 27th Congress; and at home, the Legislature of 1842—the democratic party then in power—passed an act districting the State, which received the veto of the Governor. This was followed by another act during the last session of that body, decidedly Whig, for the same purpose. The people of Georgia have already shown, by the action of both parties, that they would adopt the district system. Both parties, whatever may have been their predelections, either for or against this act, had put their tickets before the whole people of Georgia. A part of their representation is Whig and a part democratic. The act was passed with a full knowledge that the elections in some of the States (Georgia particularly) must necessarily take place under the general-ticket system before any Legislatur could be had, unless by means of an extra session of the Legislature. And I ask, sir, from whence you derive the authority to subject the people of a State to the inconvenience and expense of holding an extra session of the Legislature in Georgia, amounting to not less than fifty thousand dollars, and perhaps more—Congress has no such power.

I had hoped, sir, that, in discussing a question so universally admitted to be of the utmost importance—a grave constitutional question—gentlemen would have elevated themselves above the paltry considerations of party, and been influenced by the nobler feelings of patriotism. Do these gentlemen remember their own action upon this grave subject? Who would have believed that a question involving the right of representation in a representative Government would have met with a partisan prejudgment; and the representation from four of the States of this Union, denounced, in the most solemn manner, by protest of fifty members of this House, offered at the very threshold of our legislative duties, and before

the House was organized, as pretenders, presumptuously claiming to be members of this body, and the act of claiming their seats proclaimed as revolutionary in its tendency? Who would have believed that fifty members of the American Congress could have been found, who would have been ready, not only to pronounce judgment against these four States, unheard and in advance, but to declare their determination to use every exertion to deprive these members of their seats; when they themselves were, by the Constitution, made a part of the judges who were afterwards to pass upon that very question. By the rules of law they have rendered themselves incompetent judges. They would even insinuate that delicacy would require the representation from these States to stand aside and let others determine it. Let them determine it, when their opinion is not only made up, written out, and subscribed, but published throughout the whole length and breadth of the land. Why, sir, what solemn mockery of all the forms of law! It subverts every principle of law, justice, and common sense.

And now, sir, a rule of this House is read with a view of excluding the votes of these members, whose constituents are interested in the question. I shall abide whatever decision may be made upon that subject; but I shall be excused for reading a decision in point made in the New Jersey case, in the 26th Congress, by Mr. Adams, one of those who signed this protest:

"The chairman [Mr. Adams] here stated to the House what he conceived to be the rule. He conceived the rule to be that the persons who presented the evidence required by the Constitution of the United States, and the laws of the State of New Jersey, were entitled to sit and vote in the House, until deprived from doing so by the act of the House. This was his opinion, and he expressed it with the more confidence, because he had declared it before he was placed by a vote of the House in the chair he now occupies."

And again, in the same case, in relation to this same rule:

"The chair decided that the five members from New Jersey who were commissioned by the Governor, were not prohibited from voting under that rule; they themselves were not immediately and personally interested; it was their constituents only who were interested."

And again, in the same case, he goes still further, and sustains, in the strongest manner, New Jersey's right to representation, and sustains his own political friends:

"The chair would here remark to the gentleman from South Carolina [Mr. Rhett] that it would be impossible for him to put the question upon laying the resolution of the gentleman from Virginia on the table, until it was determined by the House whe should vote. It would be for the House to determine for themselves who should be called; but, said he, *the State of New Jersey cannot be deprived of a representation on this floor; and it shall not be so long as I stand in this chair.*"

It is stated, sir, that this decision was received with applause from the galleries. The New Jersey case differed from the one now under consideration in this, that there then was a contest as to who were the rightful Representatives, the seats of all but one being contested. In this there is no contest, no one claiming our seats. These decisions have been read, to pass for what they are worth. They forcibly impress us with the knowledge of human nature displayed by the author of the fable, in which the lawyer is made to reply, "*circumstances alter cases.*"

Is it expected to make political capital of this question? I had hoped, sir, and so expressed myself when I had the honor first to address the House on this subject, in the early part of the session, that the question should

be determined irrespective of such considerations, although I was acting with the majority. I still hope that it be so determined. Sure I am, however, in any event, that gentlemen mistake in their calculation, when they suppose that they are to realize any dividends from such capital.

If gentlemen expect political capital by an attempt to defranchise four of the States of this Union, by the enforcement of an act declared only advisory to the States, and in that sense only receiving the signature of the President, and by the enforcement of an arbitrary penalty for not obeying an act which has repealed no law of the States, passed with the full knowledge that some of the States could not pursue its advice except at great expense, which Congress had no right to impose upon them, they are welcome to all that can be made. I am willing that the people of my own State shall learn that there are those here who view this Government as a powerful central Government, and the State Governments mere petty corporations, whose Legislatures can be directed and controlled by Congress at its pleasure. I trust, sir, that they may also learn that there are others who are not ready to concede such powers to this Government, and who will stick to the ship of State, however violent the storm, or deep the wave, or thick the foe—others, who look upon the Constitution in the spirit in which it was adopted, who know the right of representation is amply secured in the Constitution; that it is the feature in our form of Government which distinguishes it from the despotisms of the old world, and who will not trample upon that right by the rejection of the representation of four States of this Union.

APPENDIX.

The following are the protestations of seven of the States in relation to the fourth section of the first article of the Constitution, made at their ratification of that instrument.

STATE OF SOUTH CAROLINA.—"And whereas it is essential to the preservation of the rights reserved to the several States, and the freedom of the people, under the operations of a general government, that the right of prescribing the manner, time, and places of holding the elections to the Federal Legislature, should be forever inseparably annexed to the sovereignty of the several States; this Convention doth declare that the same ought to remain, to all posterity, a perpetual and fundamental right in the local, exclusive of the interference of the General Government, except in cases where the Legislatures of the States shall refuse or neglect to perform and fulfil the same, according to the tenor of the said Constitution."

STATE OF VIRGINIA.—"That Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled, by invasion or rebellion, to prescribe the same."

STATE OF NEW YORK.—"That the Congress shall not make or alter any regulation in any State respecting the times, places, and manner of holding elections for Senators or Representatives, unless the Legislature of such State shall neglect or refuse to make laws or regulations for the purpose, or from any circumstances be incapable of making the same; and then only until the Legislature of such State shall make provision in the premises."

STATE OF NORTH CAROLINA.—"That the Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled by invasion or rebellion to prescribe the same."

STATE OF RHODE ISLAND.—"That the Congress shall not alter, modify, or interfere in the times, places, or manner of holding elections for Senators and Representatives, or either of them, except when the Legislature of any State shall neglect, refuse, or be disabled, by invasion or rebellion, to prescribe the same."

STATE OF MASSACHUSETTS.—"That Congress do not exercise the powers vested in them by the fourth section of the first article, but in cases where a State shall neglect or refuse to make the regulations therein mentioned, or shall make regulations subversive of the rights of the people to a free and equal representation in Congress, agreeable to the Constitution."

STATE OF NEW HAMPSHIRE.—Word for word as those of Massachusetts.